

THIRD DIVISION

[G.R. No. 110559, November 24, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO SABAN AND NORMELITA SABAN, ACCUSED-
APPELLANTS.**

D E C I S I O N

PURISIMA, J.:

Sexual relations are not a pixyish play for those couples outside the marriage bond. Neither one is allowed to bring in a third person just to satisfy the insatiable greed of another.

At bar is an appeal interposed by the spouses, Rolando Saban and Normelita Saban, from the judgment rendered by Branch XXIV of the Regional Trial Court of Laguna, finding them guilty of rape and sentencing them accordingly in Criminal Case No. 5118-B.

On July 19, 1982, Normita Elomina lodged her complaint^[1] for rape before the municipal circuit court of Sta. Rosa, Laguna.

On April 18, 1983, Provincial Fiscal Ronaldo M. Banzuela, after finding a *prima facie* case, presented the corresponding Information, alleging:

"That on or about July 17, 1982, in the municipality of Sta. Rosa, Province of Laguna, Republic of the Philippines, and within the jurisdiction of this Honorable Court, said accused in conspiracy with each other, and mutually helping one another, did then and there wilfully, unlawfully and feloniously, by the use of force, have carnal knowledge of the complainant NORMITA ELOMINA Y LAPLANA, against her will."^[2]

On August 9, 1983, upon arraignment with the assistance of their counsel *de parte*, Atty. Apolinar Fojas, the two accused-appellants pleaded Not Guilty to the charge. Thereafter, trial ensued with Dr. Solita Panganiban Plastina (Municipal Health Officer of Calamba, Laguna), Jovita Elomina and the complainant, Normita Elomina, taking the witness stand for the prosecution.

The defense presented as witnesses Florentino Satsatin (Barangay Captain of Balibago, Sta. Rosa, Laguna), Bienvenido Molina Tan, Fermina Creo and the two accused-appellants, Rolando Saban and Normelita Saban.

As can be gathered from the records on hand, the version of the People runs as follows:

Normita Elomina, daughter of Fernando Elomina and Jovita Elomina, is an epileptic.

She faints and drools (*nangingisay, nangingitim at hinihimatay kung sumusumpong ang kanyang atake*).^[3] She was unable to finish grade one because she suffered from seizures during class hours. Three physicians, namely; Dr. Roman Lipumano of Olongapo General Hospital, Dr. Alicia Gonzales of the San Lazaro Hospital, and a Dra. Luz^[4] from Holy Infant in Lipa, Batangas, were consulted and found Normita afflicted with acute encephalitis.

On July 5, 1982, Jovita, worried about the worsening condition of her daughter (Normita) and relying on the advice of her sister-in-law, accompanied Normita to Balibago, Sta. Rosa, Laguna, to be treated by accused-appellant, Normelita Saban, an reputed healer believed to be possessed by the Sto. Nino.

On July 8, 1982, Jovita invited Normelita to their house in Bigaa, Calamba, Laguna, during the celebration of Normita's fourteenth birthday. The following day, July 9, 1982, Normelita persuaded Jovita to allow Normita to stay in the house of her (Normelita's) mother-in-law for continuous treatment since Normelita only conducted healing sessions in the evening.

She stays in their house together with her husband, Rolando Saban, and their two (2) children.

On July 17, 1982, at 11:00 in the morning, Normita, while busy cleaning the house of Normelita's mother-in-law, was called by Normelita to go to her (Normelita's) house. The house measures six (6) meters by eight (8) meters, with one room used for healing sessions. Normita was asked by Normelita to lie down on the floor. Normita acceded thinking that she would be treated.

Normelita then called her husband, telling him: "*Oly, maghubo ka na ng salawal*".^[5] Frightened, Normita struggled and exerted efforts to resist the invasion on her womanhood by Rolando but to no avail, because Normelita pinned down her (Normita's) hands on the floor. When Normita tried to shout, Normelita covered her mouth. Rolando then removed his pants and brief and forcibly removed the panty of Normita. While Normelita continued pinning down Normita's hands on the floor, Rolando covered her mouth.

Rolando succeeded in inserting his sexual organ into Normita's (*nagtagumpay siyang makuha ang aking pagkababae*) by positioning his knees in between Normita's thighs.^[6] Seminal fluid was oozing from the sexual organ of Rolando "*tumutulong parang lamad lamad*".^[7] There was blood in the private organ of Normita. Lying on her side, Normelita laughed and laughed while watching her husband consummate the lecherous ordeal in the treatment room. After satisfying his lust, Rolando stood up, put on his pants and brief. Normelita warned Normita not to divulge the incident to anybody.

In the afternoon of the same day, Normita refused to be treated anymore. Normita was crying when her aunt, Zoila Elomina Baroro, arrived to fetch her. She continued crying while on board the passenger jeepney. Upon reaching home, her mother asked why she was crying but she gave no answer. The next day, Normita disclosed to her mother what was done to her.

Dr. Solita Plastina submitted her medico-legal findings as follows:

"Physical Condition: ambulatory
Garments: no soiling of garments
Height: 4' 9"
Signs of violence: no signs of violence
Pubic Hair: not matted
Labia Majora: w/ fresh brownis congested
Labia minora: with fresh erosion congested
Posterior commissure: gaping
Fourchette: retracted
Hymen: w/ 3 o'clock and 6 o'clock fresh lacerations
Vaginal Orifice: lax
Vaginal Canal: lax
Vaginal wall: lax
Discharges: vaginal: moist
Laboratory Findings Discharges: w/ difficulty
Stains: (+) for spermatozoa
Conclusion: (+) for sexual penetration^[8]

Normelita Saban placed reliance on the defense of denial while Rolando Saban theorized upon alibi and denial.

Normelita testified that it was against human nature to commit rape in broad daylight and in the presence of her three (3) children. According to her, the Elominas were just looking for persons to put their blame on, and they wanted to discredit her claim of successfully treating the sick. They also want to escape from the obligation of paying her services; Normelita maintained.

To bolster her defense, Normelita asked the trial court to reexamine Normita's revelation that her uncle used to go to their house in Bigaa everytime her mother went to Manila, as Normita told the same thing to the other patients (Blenvenida Almano, Celia Almano and one Nena) on July 9 -12, 1982 while they were playing *sungka*.

Normelita recounted that she first met Normita and her mother on July 8, 1987 in her (Normelita's) house. She was invited to attend Normita's birthday but she refused. The next day, they (Normita and her mother) returned to her house in Balibago. Jovita asked her if Normita could stay with her. However, Normita stayed in the house of Normelita's mother-in-law from July 9 to July 15, 1982 until her aunt, Zoila Elomina Baroro arrived to fetch her (Normita).

According to accused-appellant Rolando Saban, the charge of rape against him is malicious and unfounded since Normita had left their (accused-appellants') house.

Rolando narrated that on July 17, 1982, he was at the Balibago Elementary School, a walking distance (one half kilometer) from their house, as there was a special election for Barangay Captain. He met Barangay Captain Florentino Satsatin, a neighbor, between 10:00-12:00 a.m. on the same day. During the election, he also met Bienvenido Molina Tan, who testified that until 12:00 noon, they were looking for their names in the list of voters. Barangay Captain Satsatin told them to search for their names in the Comelec master list but according to Rolando, they were able to vote.^[9] From there, he went to Efren Service Parts in Laguna where he worked as a mechanic; Rolando recalled.

Fermina Creo testified that Normelita Saban treated people from eight o'clock in the morning to 4:00 o'clock in the afternoon. It was only at 11:00 o'clock in the morning when she was treated by Normelita. She stayed in the latter's house and talked to other patients.

On November 16, 1992, Judge Rodrigo V. Cosico, (now Justice of the Court of Appeals) found accused-appellants guilty beyond reasonable doubt of the crime of rape, and sentenced them thus:

"WHEREFORE, finding the accused Rolando Saban and Normelita Saban guilty beyond reasonable doubt as principal in the crime of rape as defined and penalized under Art. 335 of the Revised Penal Code, they are hereby sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties set by law, and to pay the amount of P30,000.00 each as moral damages, without subsidiary imprisonment in case of insolvency plus costs."^[10]

On October 15, 1993, Atty. Cecil Fojas withdrew her appearance as counsel for accused-appellants because on appeal, the case had been referred to Public Attorney Primo R. Naldoza of the Public Attorney's Office.

On November 18, 1993, the appeal at bar was received by the Court. Accused-appellants theorize, that:

I

THE COURT A *QUO* ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND DISREGARDING THE THEORY OF THE DEFENSE.

II

THE COURT A *QUO* ERRED IN CONVICTING THE ACCUSED DESPITE THE PRESENCE OF REASONABLE DOUBT.

The appeal is devoid of merit.

To begin with, the Supreme Court is not a trier of facts.

"Findings of fact, as this Court has reiterated in a host of cases, are within the competence and province of trial courts. Absent any showing that they overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case, this Court accords highest respect to their factual findings and their resolution of the issue of credibility."^[11]

What is more, Normita's testimony appears straightforward. She positively identified her ravishers. She narrated what transpired with simplicity and veracity. The Medico Legal Officer categorically declared that Normita, though suffering from acute encephalitis, was in her clear mind when she submitted herself for the medical examination of her private parts. She exposed herself to public trial and even